

# MATOC Industry Day 2010

26 March 2010

## ***WELCOME !!***



US Army Corps of Engineers  
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# ***Announcements***

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- Introduction/Welcome
- Please put your Cell Phones, Pagers, Blackberrys, etc. on silent
- Wireless Internet Access
- Restroom locations
- Refreshments available
- Questions/Answers
  - Drop-off boxes
  - Answers will be posted on the web site NLT 26 APR 10
- HNC/MED Team Effort



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# Agenda

8:00 AM	Registration	<b>Attendees</b>
8:30 AM	Announcements	<b>Rich Dickson</b> <i>MATOC Project Manager, MED</i>
8:40 AM	Welcome	<b>COL Ronald N. Light</b> <i>Commander, MED</i>
8:50 AM	Potential MATOC Program	<b>Deborah Duncan</b> <i>Deputy for Programs Management, MED</i>
9:00 AM	MATOC Overview	<b>Lisle Lennon</b> <i>Procuring Contracting Officer, HNC</i>
10:00 AM	Small Business Opportunities	<b>Jennifer Gordon</b> <i>Small Business Specialist, MED</i>



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# ***Agenda (cont'd)***

10:15 AM	International Balance of Payments, Trade Agreements	<b>Christy Loy</b> <i>Chief, Africa/SW Asia Branch, Contracting Division, MED</i>
10:30 AM	Sureties, Synchronized Pre- Deployment Operational Tracker (SPOT)	<b>Jo-Ann Bray</b> <i>Chief, Iraq Reach Back Branch, Contracting Division, MED</i>
10:45 AM	Project Site/Base Access	<b>Roger Thomas</b> Chief, Construction-Operations Division, MED
11:15 AM	Defense Base Act Insurance Other Overseas Contract Challenges	<b>Lynn Harper</b> <i>Deputy, PARC-WIN</i> <b>Colleen O'Keefe</b> <i>Regional Contracting Chief, TAD</i>
11:30 AM	Questions and Answers	<b>MED Panel Members</b>
12:00 PM	Conclusion	<b>Rich Dickson</b>



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# Potential MATOC Program

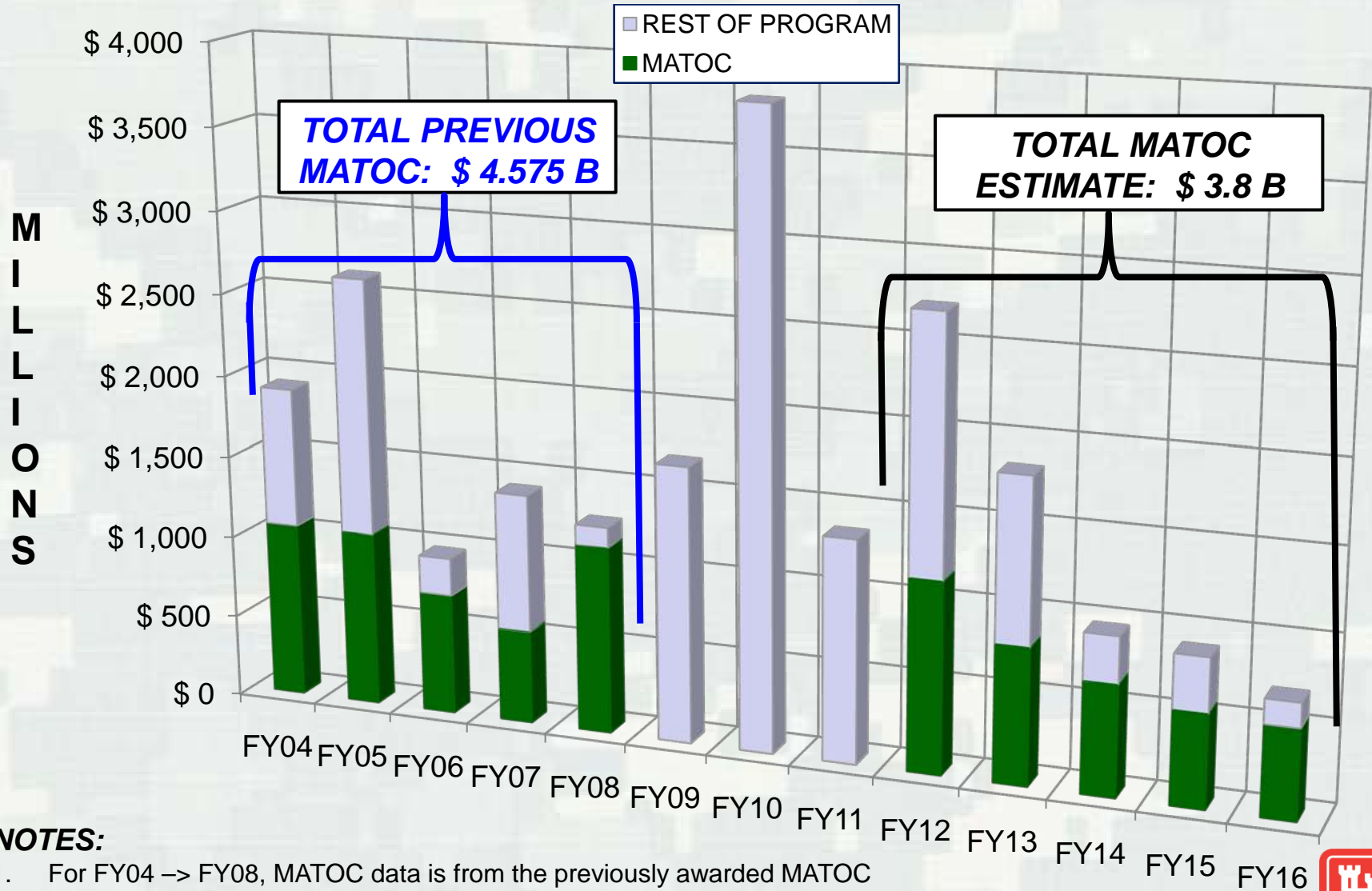
***Deborah Duncan***  
Deputy for Programs Management  
MED



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# MATOC Program Estimate

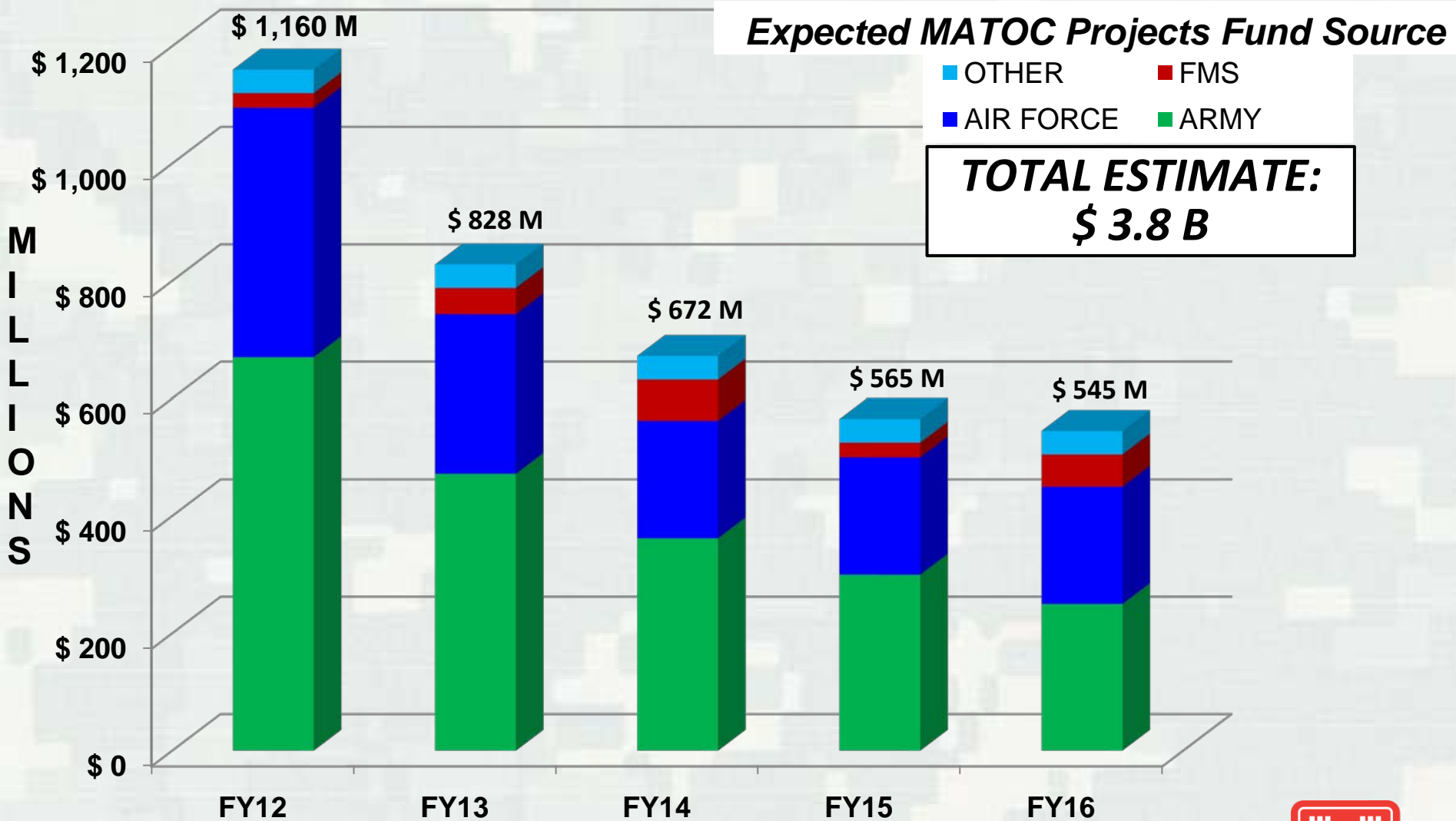


**NOTES:**

- 1. For FY04 → FY08, MATOC data is from the previously awarded MATOC
- 2. Program data from FY10 → FY16 is based upon the latest estimate for all programs
- 3. Assumes no FY11 projects will be awarded via the MATOC



# MATOC Program Estimate



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# MATOC Overview

***Lisle Lennon***

**Procuring Contracting Officer  
Contracting Division, HNC**



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# Why We Are Here

## Communicate, Involve, Partner, Improve

- Everything discussed is **TENTATIVE**!!
- We are looking for **YOUR INPUT**!!
- How can we accommodate Industry and Small Business in accomplishing our mission ?
- Look for Sources Sought, Capabilities Statement, Slides, and Q&As of these proceedings online at Federal Business Opportunities (FedBizOpps) and <http://www.tam.usace.army.mil/IndustryDay10.asp>



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# ***Pre-Award Acquisition Team***

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- **Lisle Lennon - Procuring Contracting Officer, Huntsville Center (HNC)**
- **Jennifer Staggs, Contract Specialist, HNC**  
**[Jennifer.L.Staggs@usace.army.mil](mailto:Jennifer.L.Staggs@usace.army.mil)**
- **Marcus Adams, Contract Specialist, HNC**
- **Michelle Pearman, Contract Specialist, MED**



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# ***Background***

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- Previous Contracts:
  - Task orders (\$ 300,000 to \$ 125,000,000)
  - Competition: Currently a single pool of both large and small businesses compete for contract actions. So far small businesses have successfully competed with large business to win contracts
- Future Contracts: What would be the impact on small businesses of keeping a single pool ?



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# ***Future Program Capacity***

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Estimated \$ 3.8 Billion in Shared Contract Capacity of 5 years (Base + 4 Options)

- Approximate split by WORK
  - Design-Build Construction: 66 %
  - Construction Only: 34 %



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# ***Acquisition Approach***

- 5-Year Contract Ordering Period
  - 2-Year Base and 3 1-Year Options ?
  - 1-Year Base and 4 1-Year Options ?
- Firm-Fixed-Price Task Orders
- Two-Phased Design-Build Selection Procedures
  - Phase I (Down-Select): The Government intends to use Phase I of the solicitation process to promptly identify firms possessing the basic necessary capabilities and assets
  - Phase II will address the remaining offerors capabilities to perform the specialized types of construction efforts required, in addition to the general construction requirements



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# ***Acquisition Approach (cont'd)***

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- Multiple Award Task Order Contracts
- Contract by Negotiation, FAR Part 15
  - Selection based upon Best Value
  - Negotiations/discussions/clarification permissible
- Minimum Guarantee:
  - \$ 10,000 for the Base Period, to be applied against the base year ordering period
  - No additional minimum guarantee will be obligated for the exercised option years



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# ***Market Research***

- **Helps Determine Industry Base**
  - Industry Day and Capability Statements
  - Government and Commercial Websites
    - SBA Dynamic Small Business Search, CCR, FedBizOpps, Internet searches, GSA, Other Agencies
- **How Many Small Businesses are Capable ?**
- **What are Industry's Limitations ?**
  - Potential to Set-Aside for Small Business ?
  - Determine MATOC Structure
- **Contracting Considerations**
  - Task Order Processes
  - Minimum Guarantee
  - Period of Performance



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# Acquisition Process

- Pre-solicitation Notice
  - Issued 15 Days prior to request for proposal
- Request for Proposal (RFP)
  - Posted on Federal Business Opportunities (FedBizOpps), Baghdad Business Center (BBC), and US Army Corps of Engineers Afghanistan Engineer District websites...
    - [www.fbo.gov](http://www.fbo.gov)
    - <http://www.baghdadbusinesscenter.org/Oldindex.html>
    - <http://www.aed.usace.army.mil/contracting.asp>
  - Division 01
  - Terms and Conditions
  - Instruction to Offerors
  - Evaluation Criteria



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# ***FAR Part 16.505***

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- Streamlines the Task Order Awards by...
  - Reducing the amount of information required from the contractor
  
- Most Task Order RFP's will only require the Contractor to submit:
  - Management/Technical Approach
  - Remaining Performance Capability
  - Price Proposal (Pricing Template)
  
- Past Performance on earlier orders will be considered by the Contracting Officer



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# ***Evaluation Criteria – Phase I***

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- Factor 1: Past Performance
- Factor 2: Experience
  - Large projects
  - Geographically dispersed
  - Austere or contingency environment
- Factor 3: Financial Surety



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# ***Evaluation Criteria – Phase II***

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- Factor 1: Organizational and Management/  
Technical Approach
  - Organization
  - Management Approach
  - Technical Approach
  
- Factor 2: Price



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# ***Basis of Award – Best Value***

- The Contracting Officer will award an ID/IQ contract with a target of ten (10) responsible offerors in accordance with FAR clause 52.215-1, Instructions to Offerors – Competitive Acquisition
- Relative Importance: The awards will be made based on the best overall (i.e., best value) proposals that are determined to be the most beneficial to the Government, with appropriate consideration given to the evaluated ratings from the Phase II proposal, including the price proposed under Phase II, which will be used to conduct a price evaluation for award of the firm-fixed price ID/IQs



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# ***Rolling It All Up***

- Optimize Mission Success
- Pros and Cons of Each Alternative
- Respond to Sources Sought Announcement
- Don't be afraid to ask questions
  - If you have questions, others probably have the same ones
  - If you don't ask, we don't know that there is any confusion about what we are asking
  - A question doesn't always mean that you are giving up some valuable information that others haven't thought of



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# Websites of Interest

- Solicitation documents will be located at:
  - [www.fedbizopps.gov](http://www.fedbizopps.gov) or [www.fbo.gov](http://www.fbo.gov)
  - <http://www.baghdadbusinesscenter.org/Oldindex.html>
  - <http://www.aed.usace.army.mil/contracting.asp>
- Federal Acquisition Regulation
  - [www.acquisition.gov/far/index.html](http://www.acquisition.gov/far/index.html)
- Get yourself registered in CCR (mandatory)
  - [www.ccr.gov](http://www.ccr.gov) & <https://orca.bpn.gov/>
- Look for Sources Sought, Capability Statement, Slides and Q&As of these proceedings online at FedBizOpps/BBC/AED websites and <http://www.tam.usace.army.mil/IndustryDay10.asp>



# Small Business Opportunities

***Jennifer Gordon***  
**Small Business Specialist**  
**Contracting Division, MED**



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# ***Small Business***

- The definition of small business, as provided by the Small Business Administration, does not exist beyond the United States, and therefore contracts performed outside of the United States are not subject to small and small disadvantaged set aside requirements, pursuant to FAR 19.000(b)



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# ***Small Business (cont'd)***

- However it is the policy of USACE to afford small businesses the opportunity to compete whenever possible, and therefore large firms will be requested to submit subcontracting plans. To encourage economic development in Iraq and Afghanistan, USACE also encourages the use of Local National firms, the majority of which would be considered small businesses in the US. The subcontracting plans should reflect this data as well as it is of Congressional interest



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# ***Small Business Program***

- **The US Small Business Act**

- Only applicable to contract actions with a place of performance/delivery in the United States, or its outlying areas
- No statutory authority to limit competition for small business concerns outside the US
- MED encourages maximum practicable opportunities for small business concerns, both as a prime and as a subcontractor, both CONUS and OCONUS
- Small businesses include veteran-owned, service-disabled veteran-owned, HUBZone, small disadvantaged, and women-owned small business concerns



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# ***Small Business Program Statistics***

- In FY09, MED awarded \$ 1.14 B in contract actions, worldwide
- Of this amount, approximately \$ 26 M was awarded with a place of performance/delivery within the US
  - This \$ 26 M is MED's US Business Base against which our Small Business Goals are applied
  - Small Business Goals are not applicable to contracts with a place of performance/delivery outside of the US
  - No credit is given if a contract is awarded to a small business concern outside of the US. However, MED encourages small business concerns to participate in OCONUS competitive acquisitions both as prime and subcontractors, joint ventures, etc.



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# ***Small Business Subcontracting Plans***

- In accordance with the statutory requirements of FAR 19.702, any contractor receiving a contract for more than the simplified acquisition threshold must agree in the contract that small businesses will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance
- However, FAR 19.702 (b) (3), Subcontracting Plans are not required when contracts or contract modifications will be performed entirely outside of the United States and its outlying areas



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# Balance of Payments Program

***Christina Loy***  
Chief, Africa/South West Asia Branch  
Contracting Division, MED



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# Overview

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- Set forth in DFARS Subpart 225.75
- Program applies to:
  - Supplies for use outside the United States; and,
  - Construction to be performed outside the United States



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# ***Policy (DFARS 225.7501)***

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- Use only domestic construction material for construction to be performed outside the United States
  - Including end products
  - Including construction material for foreign military sales
- Acquire only domestic end products for use outside the United States



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# ***Exception: Before Issuing the Solicitation***

- The Contracting Officer determines that a requirement can best be filled by a foreign end product or construction material
- This includes determinations that:
  - A subsistence product is perishable and delivery from the United States would significantly impair the quality at the point of consumption;
  - An end product or construction material, by its nature or as a practical matter, can best be acquired in the geographic area concerned, e.g., ice or books; or bulk material, such as sand, gravel, or other soil material, stone, concrete masonry units, or fired brick;





# ***Exception: After Receipt of Offers***

- OR, at any time during the acquisition process, the head of the agency determines that it is not in the public interest to apply the restrictions of the Balance of Payments Program to the end product or construction material
- The Head of the Agency is the Secretary of the Army



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# *List of Qualifying Countries*

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- “Designated country” means:
  - A World Trade Organization Government Procurement Agreement (WTO GPA) country: Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom



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# ***Qualifying Countries (cont'd)***

- A Free Trade Agreement country: Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore
- A least developed country: Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or



# ***Qualifying Countries (cont'd)***

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- A Caribbean Basin country: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St Lucia, St Vincent and the Grenadines, or Trinidad and Tobago



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# Sureties, Synchronized Pre-Deployment Operational Tracker (SPOT)

***Jo-Ann Bray***

**Chief, Iraq Reach Back Branch  
Contracting Division, MED**



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# ***Sureties – FAR Part 28***

- Definition – Financial protection against losses under contracts that result from the use of sealed bid or negotiated methods
  - Examples are: Performance and Payment Bonds, Bank Letter of Guaranty, and Irrevocable Letter of Credit



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# ***Surety Types***

- Performance and Payment Bonds:
  - Obtained through the US Treasury
  - Penal Sum is 100% of the original contract amount
  - May be waived by the Chief of Contracting if it is determined that a guaranty is not in the best interest of the Government for a specific acquisition, such as overseas construction, emergency acquisitions, sole-source contracts



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# ***Surety Types (cont'd)***

- **Bank Letter of Guaranty (BLG):**
  - Obtained from a financial institution by the successful Contractor
  - Sample of BLG will be included in solicitations
  - The Penal Sum is equal to 5 – 10 % of the original contract amount, or as determined by the Contracting Officer considering the dollar value and complexity of the proposed acquisition
  - Expiration date of BLG will be documented in the agreement

***Sample provided in Presentation Packet***



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# ***MED's AOR Surety Types (cont'd)***

- Irrevocable Letter of Credit (ILC):
  - Obtained from a financial institution by the successful Contractor
  - The Penal Sum percentage, amount and expiration date of the ILC will be noted in the agreement

***Sample provided in Presentation Packet***



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# ***Penal Sum***

- The amount of money, or percentage of the total contract amount, specified in a guaranty as the maximum payment for which the surety is obligated to be pledged to the Government, in lieu of a corporate or individual surety for bonds



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# ***Important Notes***

- The Contractor shall furnish proof of the guaranty prior to receiving a Notice to Proceed with the work or being allowed to start work
- The solicitation will identify which type of guaranty is required, the amount and/or %
- Changes in guaranty document language are prohibited



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# ***Synchronized Pre-Deployment Operational Tracker***

DFARS Deviation 2007-O0010, Contractor Personnel in the US  
Central Command Area of Responsibility



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# ***Purpose of SPOT***

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- Single source to track deployed contractor personnel supporting DoD military operations worldwide. SPOT is a Web-based application that provides the capability to maintain accountability and report status for deployed personnel across the military, civilian, and contractor communities



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# ***SPOT Access***

- SPOT is restricted to authorized, registered users through the on-line registration process via the below URL

<https://spot.altess.army.mil>

- Click register link and follow the prompts to complete the registration. Access will be granted after SPOT's Help Desk receives confirmation



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# ***SPOT Access Requires***

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- Army Knowledge Online (AKO)
- Common Access Card (CAC)
- DOD approve Public Key Infrastructure (PKI) or
- Other approved software certification



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# ***SPOT Users***

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- Company Administrator
- Company Employee (Self Tracker)
- Contracting Administrator
- Contracting Officer
- Contractor Accountability
- Government Organization Administrator
- Government Organization Authority



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# ***Letter of Authorization (LOA) Overview***

- SPOT provides a workflow for LOA approvals
  - An LOA is requested as part of creating a deployment – the LOA is assigned to a Government Authority user
  - Government Authority and Contracting Officer (KO) user reviews LOA inbox and authorizes the LOA
  - KO reviews the LOA, assigns appropriate privileges and approves. Once the KO approves the LOA, it is digitally signed and available to be viewed and printed



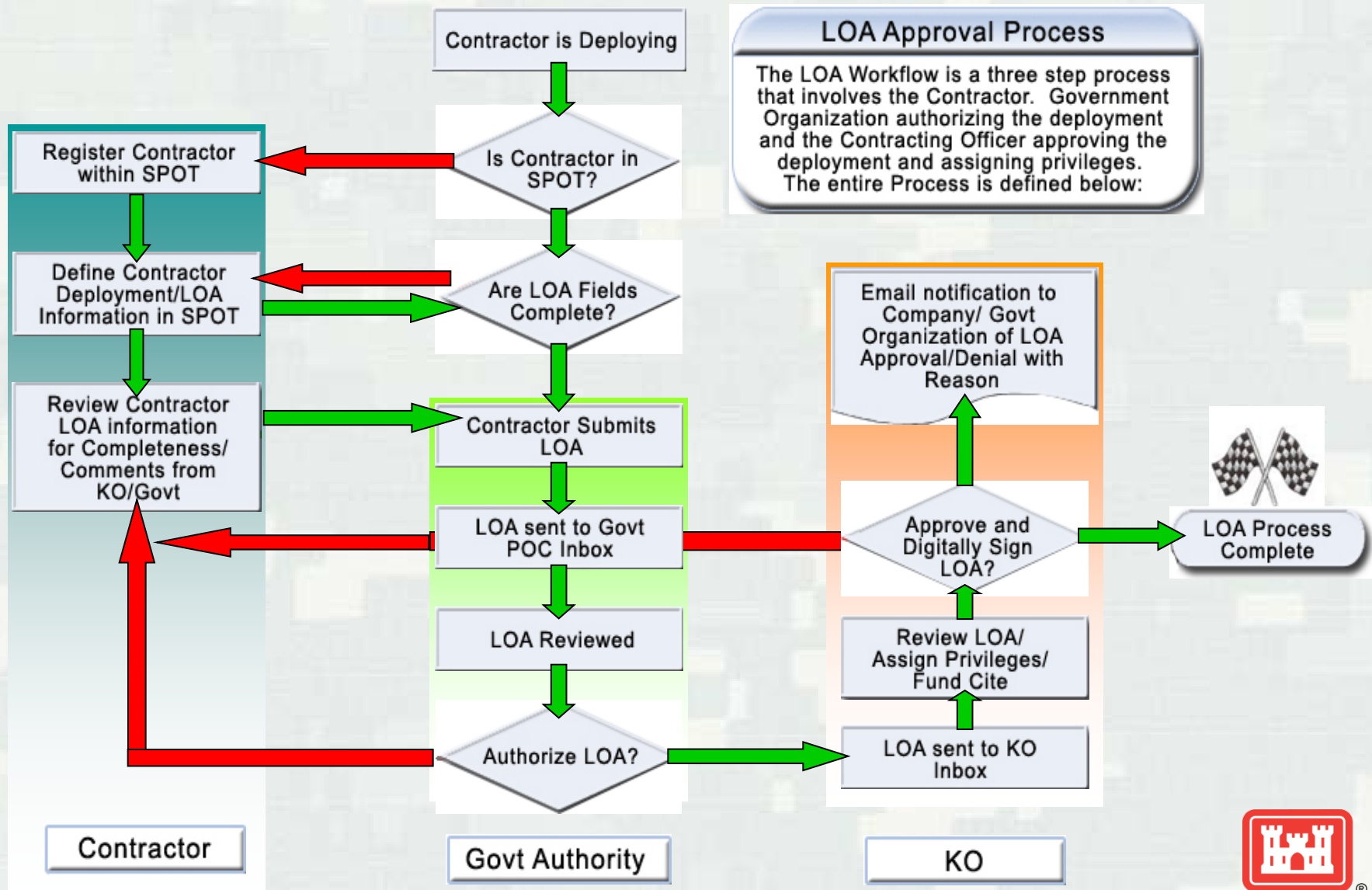
# LOA Overview (cont'd)

- LOA status in the system:
  - Not Requested (if the Deployment was entered without requesting an LOA)
  - Pending (Once submitted and it is awaiting Government Authority review)
  - Authorized Government; Pending (while awaiting KO approval)
  - KO Approved (When the KO assigns privileges and approves it)
  - Denied (If either the Government Authority or the KO denies the LOA Request)
  - Approved LOAs may only be revoked by KO
  - LOA Process will digitally sign and generate the LOA once it is approved by KO





# SPOT Process



# Sample LOA Form Generated by SPOT

LETTER OF AUTHORIZATION			DATE OF REQUEST
GOVT AGENCY SUPPORTING MISSION U.S. Army	GOVT AGENCY POC Mr. James Andrews	GOVT AGENCY POC PHONE 777-777-7777	GOVT AGENCY POC EMAIL james.andrews235@us.army.mil
NAME (Last, First, Middle Initial) Smith Jr., Johnathon J.	SSN 395-55-5555	DATE OF BIRTH 7/13/1969	PLACE OF BIRTH Duck, NC
HOME ADDRESS 1945 Victory Road Suite 178 McLean VA 22192		CITIZENSHIP 7/13/1969	PASSPORT # / EXPIRATION 78153298(1/1/2008)
AKO EMAIL smith.jonathon22@us.army.mil		DEPLOYMENT PERIOD START Sunday, July 01, 2007	DEPLOYMENT PERIOD END Thursday, November 15, 2007
CLEARANCE LEVEL w/ AGENCY	CLEARANCE DATE (MM/DD/YYYY) Monday, January 01, 2007	THEATER EMAIL smith.jonathon@swa.us.army.mil	
COMPANY (full name) Booz Allen Hamilton	COMPANY POC Ronald Pendergrass	JOB TITLE Sr. Electrical Engineer	GRADE EQUIV (GS12 or GS 13) GS12
CONTRACT NUMBER/ TASK ORDER AXBG-12AG5	CONTRACT PERIOD START 1/1/2006	COMPANY POC TELEPHONE 703-902-2222	COMPANY POC EMAIL pendergrass_ronald@bah.com
NEXT OF KIN (NOK) NAME Betty Smith	NOK RELATIONSHIP Wife	CONTRACT PERIOD END 12/31/2008	CONTRACT ISSUING AGENCY Army Materiel Command
IN-THEATER CONTACT James Hendrix		NOK TELEPHONE 808-888-0000	NOK ALTERNATE TELEPHONE 808-878-0707
		CONTACT'S PHONE 777-777-7777	CONTACT'S EMAIL james.hendrix1@us.army.mil
COUNTRIES TO BE VISITED Saudi Arabia, Iraq		PRIVILEGES	
PURPOSE Engineering support for power plants.		<input checked="" type="checkbox"/> BILLETING	<input checked="" type="checkbox"/> PX/BX
FUND CITE w/ BILLING ADDRESS  This is where we put the fund cite.		<input checked="" type="checkbox"/> DFACS	<input checked="" type="checkbox"/> COMMISSARY
		<input checked="" type="checkbox"/> MEDICAL/DENTAL	<input checked="" type="checkbox"/> CACID CARD
		<input checked="" type="checkbox"/> DEPENDANTS	<input checked="" type="checkbox"/> FUEL
		<input checked="" type="checkbox"/> MWR	<input checked="" type="checkbox"/> MIL CLOTHING
		<input checked="" type="checkbox"/> MIL ISSUED EQUIP	<input checked="" type="checkbox"/> MIL EXCHANGE
		<input checked="" type="checkbox"/> APO/FPO	<input checked="" type="checkbox"/> MIL BANKING
		<input checked="" type="checkbox"/> TRANSPORTATION	<input checked="" type="checkbox"/> EXCESS BAGGAGE
		<input checked="" type="checkbox"/> MILAIR	

The government organization specified above, in its mission support capacity under the contract, authorizes the individual employee identified herein, to proceed to the location(s) listed for the designated deployment period set forth above. Non-supervisory positions shall be rated GS-12 or equivalent. Supervisory / Managerial positions shall be rated as GS-13 or equivalent. Upon completion of the mission, the employee will return to the point of origin. Travel being performed is necessary and in the public's service. Travel is in accordance with FAR 31.205-36 and the maximum per diem allowable under the appropriate travel regulations (Joint Travel Regulation (for AK, HI and outlying areas of the United States and US possessions), Federal Travel Regulation for CONUS and US Territories, and Dept of State's Standardized Regulations for OCONUS Foreign Areas designated by DOS).

Emergency medical support will be determined by the appropriate supported commander. Contractor authorization aboard military aircraft will be determined by the supported commander. Necessary identification badges will be determined and provided by the supported command.

This Contractor is considered as "Key Personnel, Government Civilian" in connection with "Non-Combatant Evacuation Orders" at the civil service grade indicated above.



## REMARKS

### Contracting Officer

Signature \_\_\_\_\_  
 Print Name \_\_\_\_\_  
 Email \_\_\_\_\_  
 Phone \_\_\_\_\_



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# Overseas Construction Challenges, Project Site/Base Access

***Roger Thomas***

**Chief, Construction Operations  
Division, MED**



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# Overseas Construction Challenges

- Logistics and Support
- Base Access
- Physical Security
- Safety
- Life Support



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# Base Access

- Resident Status
- Resident Visas
- Base Passes
- CAC Cards
- Vehicle Access
- Materials/Equipment



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# Logistics and Support

- Project site ordnance clearance
  - Undiscovered Ammo/Bombs/RPG's
- Disruption planning
  - Hostile activities evacuation plan
- Site layout/sub-contractor accessibility
  - Base passes
  - Search pits
  - Escorts
- Contractor mob/lay down areas
  - Off base locations
- Local procurements/small purchases, payments (cash)
  - Local currency fluctuations
- Site vehicles/construction equipment
  - Licensing/insurance/disposition



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# Logistics and Support (cont'd)

- Power/utilities (capacity/type)
  - Local standards/no standards
  - 110V/230V, 50/60 cycle
- Communications
- Medical Services, remote locations
- Field office staff housing/transportation
  - Off base locations
  - Humanitarian standards
- Demobilization/equipment extraction
  - Residual equipment/materials
- Customs/Duties/Taxes/Demurrage
  - Contractors responsibility
- Resident Management System (RMS) mandatory usage
- No Small Business Offices OCONUS
  - Embassy Commercial Offices not staffed for support



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# Miscellaneous/Other

- Physical Security
  - Personnel
  - Job site
  - Subcontractors
  - Equipment and materials
  - Completed Work
- Safety Requirements
- US Citizen Requirements
- Local Sponsor/Registration
- Life Support
  - Multi-national work force
  - Communications
  - Home leave



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# Defense Base Act Insurance, Overseas Contracting Challenges

***Lynn Harper***

Deputy, Principal Assistant for Contracting,  
Winchester (PARC – WIN)

***Colleen O'Keefe***

Regional Contracting Chief, TAD



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# DBA Insurance

- What is DBA Insurance ?
  - Congressionally mandated workers compensation insurance effective since 1941
    - 42 U.S.C. Sections 1651-1654, as amended
    - OSD issued guidance in DEC 03
  
- It's the Law
  - Contractors **MUST** buy DBA insurance for its employees working outside the 50 states.
    - Unless under a self-insurance program approved by DOL or subject to a waiver (see FAR 28.305)



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# ***When is DBA Required ?***

- For Contractors and Subcontractors, unless waived by DOL
- DOL Policy Letter for DoD is forthcoming
  - Changes/clarifications in Waivers
- A waiver can be requested from DOL
  - IAW FAR 28.305
- No waiver if:
  - Hired in the US
  - Resident of the US
  - Citizen of the US
  - If no Local Compensation Law Exists in Country



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# ***Country Waivers***

- Belgium
- Germany
- Japan
- Oman
- United Arab Emirates
- Saudi Arabia
- Bahama Island
- Kazakhstan
- Italy
- Turkey
- South America
- Honduras
- El Salvador
- Qatar
- Botswana
- South Korea
- Territory of Guam
- Israel
- American Somoa



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# DBA Insurance

- The USACE-wide contract was awarded to Continental Insurance Company (CNA)
- CNA must be utilized whenever the contractor either obtains new DBA insurance or renews its existing DBA insurance
  - Why ? Because this is a requirements contract
  - Contract includes JCC-I/A
  - Can't accept coverage from another insurance carrier
  - Otherwise, Government will be in breach of its contract with CNA, and can be sued for damages by CNA



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# Background/History

- Why does the USACE Program exist ?
  - After 9/11 insurance costs became unaffordable for many companies, as much as \$ 150 per \$ 100 Compensation
  - Needed to find a way to help companies follow the DBA law
- Contract Information
  - In Third Year of Program (Since OCT 05)
    - 1 OCT 09 through 30 SEP 10
    - 12 month Option Period
  - The Fixed rates (reduced) are currently:

➢ Services	\$ 4 per \$ 100 Compensation
➢ Construction	\$ 6 per \$ 100 Compensation
➢ Security	\$ 10 per \$ 100 Compensation
➢ Aviation	\$ 17 per \$ 100 Compensation



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# ***Definition of Labor Categories***

**SERVICE:** “White collar” workers such as IT Consultants, Engineers, Administrative type Office workers and light housekeeping, Security Consultants could be included as long as they are just assessing risk and not providing armed protection

**CONSTRUCTION:** “Blue collar” workers providing Construction services such as Carpentry, Electrical, Plumbing, Concrete, Asphalt, Day Laborers, Operation and Maintenance of Heavy Equipment

**SECURITY:** Personal Security Detail (PSD) and Static or Convoy Guarding property of Personnel

**AVIATION:** Pilot and Crew of any aircraft excluding ground personnel who provide maintenance or services but stay on the ground



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# ***PARC Instruction Letter***

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- New List of Country Waivers
- USACE and JCC-IA Contractors and Subcontractors
- Pre-Award and Post-Award Responsibilities
  - Special Solicitation and Contract Requirements
  - When to Allow Performance (NTP) – Proof of Insurance
  - Separately Price the DBA CLIN – Only Pay Actual based on Copy of “Paid Premium Invoice”
- Oversight and Accountability
  - Leadership Responsibility
  - Contracting Officer Responsibility
  - Appoint Regional COR’s



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# Contracting Officer's Responsibilities

## PRE AWARD:

- Special Solicitation and Contract Requirements
  - Refer to Interim Guidance and Interim Policy Directive
  - Section for Solicitations
  - Section for Awards
- Make sure the Offerors are aware and cost it
  - Discussions/Negotiations or Pre-Bid Conferences
  - Applications for DBA Insurance aren't needed until Award
- Ensure that the Contractor and its Subs obtain DBA insurance from **CNA only**



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# Contracting Officer's Responsibilities

## POST AWARD:

- Verify valid policy for Prime and Subs before issuing the NTP
- Make sure Task Order/Contract Number is on Policy/Endorsement
- Ensure that the Contractor and its Subcontractors maintain DBA coverage *with CNA*
- Get a copy of the paid Invoice from the Contractor within 30 days – before progress payments are made
  - Do not pay DBA Insurance Premium without proof (Paid Invoice)
- If a contractor fails to maintain coverage
  - Issue a Stop Work Order
  - Withhold progress payments
  - Issue Cure Notice
  - Terminate the contract for default
  - Poor past performance – CPARS, ACASS, CCASS



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# Points of Contact

- USACE DBA Subject Matter Expert
  - PARC-WIN: Lynn Harper (540) 665-3998 [lynn.harper@us.army.mil](mailto:lynn.harper@us.army.mil)
- USACE Contracting Officer – HECSA
  - Susan Stewart (703) 438-8487 [susan.m.stewart@usace.army.mil](mailto:susan.m.stewart@usace.army.mil)
- JCC/IA POCs
  - Ruth Ijames: [ruth.anne.ijames@us.army.mil](mailto:ruth.anne.ijames@us.army.mil)
  - Dona Alexander: [dona.alexander@iraq.centcom.mil](mailto:dona.alexander@iraq.centcom.mil)
- Department of Labor
  - Miranda Chiu (202) 761-7169 [Chiu.miranda@dol.gov](mailto:Chiu.miranda@dol.gov)
  - Waiver Questions
    - John Chamberlain (202) 693-0925 [Chamberlain.john@dol.gov](mailto:Chamberlain.john@dol.gov)



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# ***Clauses to Be Aware Of***

- New FAR Clause – Fraud Disclosure Rule
- FAR 52.203-13, effective 24 DEC 08
- Contractor must have a written code of business ethics and conduct (inapplicable to small businesses)
- Mandatory contractor disclosure if credible evidence of:
  - Violation of federal criminal law, involving fraud, conflict of interest, bribery, or gratuity violations, or
  - Civil False Claims Act
- Contractor subject to suspension/debarment for failure to timely disclose credible evidence or significant contract overpayment
- U.S. Sentencing Guidelines, Section 8B2.1, Effective Compliance and Ethics Program, [http://www.ussc.gov/2007guid/8b2\\_1.html](http://www.ussc.gov/2007guid/8b2_1.html)



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# ***Clauses to Be Aware Of (cont'd)***

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- New Contract Clause FAR 52.222-54,  
Employment Eligibility Verification (JAN 09)
  - Enroll
  - Verify all new employees
  - Verify employees assigned to the contract



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# ***Theater Business Clearance***

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- Theater Business Clearance gives CENTCOM and JCC-I/A visibility of contract personnel and materials in Iraq and Afghanistan



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# ***JCC-I/A Acquisition Instruction Mandatory Language***

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- Acquisition Instruction (AI) 52.7: Contract Delivery Requirements
- AI 52.8: Mandatory Shipping Instructions, Iraq
- AI 26.4: Reporting Contractor Compliance with Support of Iraq Socioeconomic Program
- AI 26.5: “Iraqi First” Program Implementation
- AI 52.12: Contractor Support of USAID Communities Stabilization Program (CSP) for Hiring Iraqi Apprentices



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# ***JCC-I/A Acquisition Instruction (AI) Mandatory Language***

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- AI 25.3: Compliance with Laws and Regulations
- AI 26.6: Afghanistan “Afghan First” Program Implementation
- AI 22.1: Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports
- AI 25.2: Fitness for Duty and Limits on Medical/Dental Care in Iraq/Afghanistan
- AI 23.1: Reporting a Kidnapping



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# ***JCC-I/A Acquisition Instruction Mandatory Language***

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- AI 25.1: Armed Personnel – Incident Reports
- AI 52.6: Arming of Contractors, Iraq/ Afghanistan
- AI 25.4 Quarterly Contractor Census Reporting
- DFARS 252.225-7040, Contractor Personnel  
Authorized to Accompany Armed Forces Deployed  
Outside the United States



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# Conclusion

***Rich Dickson***  
**MATOC Project Manager, MED**



US Army Corps of Engineers  
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# Path Ahead

*Below are the expected key MATOC Milestone dates:*

<u>Action</u>	<u>On/Before</u>
• Release Phase 1 RFP	15 AUG 10
• Phase 1 Selections (and Release Phase 2 RFP)	08 NOV 10
• Contract Award	24 MAY 11

*Note: Due to the size and complexity of this solicitation, there are many reviews and approvals required, thus a lot of time is required to complete the process*



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# ***QUESTIONS & ANSWERS***

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***Check the web site into the future for  
Answers to your Questions***



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